

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER 05-0394
ADJUSTED GROSS INCOME TAX
For Tax Period 2002-2004

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Issue

I. Adjusted Gross Income Tax -Imposition

Authority: IC § 6-3-2-1(a); IC § 6-8.1-5-1(b); IC § 6-8.1-5-4.

The taxpayers protest the imposition of adjusted gross income tax.

Statement of Facts

The taxpayers are a married couple who were residents of Georgia. The husband received income as a managing partner of a hotel and restaurant in Indiana. The taxpayers did not remit Indiana adjusted gross income taxes on their income from the hotel and restaurant during the years 2002-2004. The Indiana Department of Revenue (department) assessed the taxpayers adjusted gross income tax, interest, and penalty against the taxpayers for the tax period. The taxpayers protested the assessment and a hearing was scheduled. The taxpayers failed to participate. This Letter of Findings is based upon the documentation in the file.

I. Adjusted Gross Income Tax –Imposition

Discussion

An adjusted gross income tax is imposed upon the Indiana source income of nonresidents. IC § 6-3-2-1(a). Income from managing an Indiana hotel and restaurant is Indiana source income subject to the Indiana adjusted gross income tax. The taxpayers protested the amount of the assessment.

Notices of proposed assessments are prima facie evidence that the department's claim for unpaid taxes is valid. The taxpayer has the burden of proving that the department incorrectly imposed the assessment. IC § 6-8.1-5-1(b). Taxpayers are required to keep adequate books and records so that the department can determine the proper tax owed to the state. IC § 6-8.1-5-4.

The taxpayers' books and records were not adequate to allow the department to determine the correct amount of tax. Therefore, the department had no option but to prepare an estimate based upon the best information available. The taxpayers did not produce any documentation to substantiate their contention that the department's estimate was inaccurate.

Finding

The taxpayer's protest is denied.

KMA/JMM/DK/06/04/04